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Office of Inspector General
Great Plains Region

Audit Report

Farm Service Agency Hurricane Relief Initiatives: Livestock Indemnity and Feed Indemnity Programs

Report No. 03601-23-KC
February 2009



UNITED STATES DEPARTMENT OF AGRICULTURE

OFFICE OF INSPECTOR GENERAL

Washington, D.C. 20250



DATE: February 2, 2009

REPLY TO

ATTN OF: 03601-23-KC

TO: Dennis Taitano
Acting Administrator
Farm Service Agency

ATTN: T. Mike McCann
Director
Operations Review and Analysis Staff

FROM: Robert W. Young /s/
Assistant Inspector General
for Audit

SUBJECT: Livestock Indemnity and Feed Indemnity Programs

This report presents the results of our review of the Farm Service Agency's controls over the Hurricane Relief Initiatives: Livestock Indemnity and Feed Indemnity Programs. Your response to the official draft, dated January 16, 2009, is included in its entirety as exhibit B. Excerpts of your response and the Office of Inspector General's (OIG) position are incorporated into the Findings and Recommendations section of the report.

Based on your response, we have reached management decisions on Recommendations 1, 2, 3, 6, 8, 12, and 13. Please follow your agency's internal procedures in forwarding documentation for final actions to the Office of the Chief Financial Officer. Management decisions can be reached for Recommendations 4, 5, 7, 9, 10, 11, and 14 once you have provided us with the additional information outlined in the report section, OIG Position.

We request a reply within 60 days describing the information requested in the OIG position section of the report for the seven open recommendations. Please note that Departmental Regulation 1720-1 requires management decision to be reached on all recommendations within a maximum of 6 months from report issuance and final action to be taken within 1 year of the date of management decision.

We appreciate the courtesies and cooperation extended to us by members of your staff during this audit.

Executive Summary

Farm Service Agency Hurricane Relief Initiatives: Livestock Indemnity and Feed Indemnity Programs (Audit Report 03601-23-KC)

Results in Brief

Following hurricanes Dennis, Katrina, Ophelia, Rita, and Wilma in 2005, the U.S. Department of Agriculture's Farm Service Agency (FSA), through its local, State, and national offices, worked diligently to provide almost \$22.3 million in Livestock Indemnity Program (LIP) payments to 1,633 applicants who suffered significant storm-related livestock losses and over \$4.8 million to 4,237 applicants for feed losses under the Feed Indemnity Program (FIP).

The Office of Inspector General (OIG) initiated this audit to assess the effectiveness of FSA's program delivery of LIP and FIP and the adequacy of its management controls to ensure program integrity.¹ Specifically, we assessed FSA's controls for processing and approving LIP and FIP applications to determine if they adequately protected the program against fraud, waste, and abuse. Overall, we found that while overseeing several disaster related programs with limited staff, FSA personnel successfully administered FIP and many aspects of LIP. We did not identify any material program or management control weaknesses from our review of FIP applications. However, we found that some LIP procedures, such as those related to third-party certifications, need improvement to strengthen the integrity of future programs.

We reviewed about 200 approved LIP applications in three States (Louisiana, Mississippi, and Florida) and identified about \$1.9 million in payments that were based on incomplete or unsupported third-party certifications, questionable livestock beginning inventories and claimed losses, and improper changes to Farm Operating Plans to increase the number of participants eligible for LIP payments.

Ninety-seven of the approved LIP applications reviewed relied on third-party certifications. The third-party certification process requires applicants to provide written, signed, and dated statements from third-parties that include specific details, such as number and type of perished livestock, and provide verifiable evidence, such as veterinary or bank records that reasonably substantiate their beginning inventory. However, local FSA officials accepted incomplete certifications and approved program applications without required supporting documentation because, in part, beginning livestock inventory records were not available and/or the local officials were aware of the

¹ Due to the relative small average FIP payment of \$1,142 per applicant, our review efforts focused primarily on the LIP where payments averaged \$13,648 per applicant.

applicant's livestock operations. Our audit showed that 53 applications with payments of about \$922,000 relied on third-party certifications lacking necessary information, such as the number, type, and/or cause of death, or did not have verifiable documentation to clearly substantiate their claimed livestock inventories prior to the hurricanes (see exhibit A).

We also identified improper LIP payments totaling over \$944,000 based on questionable receipts² for livestock medical supplies used to substantiate beginning inventories (prior to the hurricanes), livestock losses in excess of the beginning inventories, and improper changes to Farm Operating Plans that increased the number of participants eligible to receive LIP payments and increased their LIP payment (see exhibit A):

- Six applications received LIP benefits totaling over \$427,000 based on questionable support for their claimed beginning inventory. We noted that veterinarian medical supply receipts were out of sequence when compared to the date of the receipt and other receipts were just written statements. FSA requested that the Office of Inspector General-Investigations (OIG-I) investigate the claimed losses for two of the six applicants. As a result, OIG-I requested that we suspend our audit followup related to the six applicants.
- Three applications claimed losses in excess of the beginning inventories and received overpayments totaling about \$117,000. OIG-I determined that the overpayments resulted, in part, from administrative errors made by the local FSA office and the applicants were not prosecuted.
- Two applications reviewed showed changes made to official program records after the disaster programs were announced, and, as a result, the applicants received questionable LIP payments totaling \$400,000. Although two of the applicants had already received 2005 USDA benefits under other FSA programs, they were allowed to change their 2005 Farm Operating Plans to increase the number of persons eligible to receive LIP payments. The Louisiana FSA State Committee (STC) reviewed the changes made to previously approved program records and concurred with the county committee determinations for the two entities and the LIP payments made. We disagree with STC's decisions and believe they should be reviewed by the Deputy Administrator for Farm Programs (DAFP) for a final determination.

² Local FSA personnel claimed they did not have the time or resources to perform a reconciliation of receipts provided by the applicants as evidence supporting their beginning livestock inventories.

In addition, we determined that the 60-day disaster period may have been excessive, especially in Florida. Based on our review, we questioned whether livestock deaths from causes like stress and calving complications that occurred more than 30 days after Hurricane Wilma struck were directly related to the disaster.³

During the course of our review, we also identified a questionable LIP application submitted by an FSA county office employee's spouse. We provided the Louisiana State FSA Office with documentation and information concerning the application, and it took appropriate administrative action against the employee.

Our audit was conducted in conjunction with the President's Council on Integrity and Efficiency (PCIE) as part of its examination of the Federal Government's relief efforts in the aftermath of Hurricanes Katrina and Rita. As such, a copy of this report will be forwarded to the PCIE Homeland Security Working Group, which is coordinating Inspector General reviews of this important subject.

Recommendations In Brief

For future programs, FSA should provide:

- procedures with detailed guidance describing the required documentation for applicants and third-party certifiers to clearly substantiate claimed livestock losses; and
- specific instructions for local FSA office personnel to follow when applicants do not have verifiable evidence for establishing beginning inventory.

FSA should also:

- instruct the Louisiana State FSA Office to coordinate with OIG-I on the six cases under review in Cameron Parish and determine the adequacy of documentation supporting beginning and ending inventories in Vermillion Parish;
- review the State Committee's determination to approve the changes made to 2005 farm program records in Plaquemines Parish that increased program payments and request the DAFP to make a final determination;

³ To be eligible for compensation under the LIP program, livestock must have perished in a disaster county during an applicable *disaster period*, which was referenced on a county-by-county basis in exhibit 20 of FSA Handbook 4-DAP (Revision 1), "Livestock Programs" (Amendment 15, dated April 13, 2006). Each disaster period in exhibit 20 extends for 60 days after the applicable hurricane made initial land fall.

- seek recovery of any unsupported payments from the producers in Cameron, Vermillion, and Plaquemines Parishes associated with these issues; and
- review the facts and circumstances regarding the establishment of loss claim periods to ensure they correlate eligible loss periods more closely with local conditions related to the disaster.

Agency Response FSA agreed with the recommendations in the report. We have incorporated FSA's response into the Findings and Recommendations section of this report along with the OIG position. FSA's response to the draft report, dated January 16, 2009, is included in its entirety as exhibit B.

OIG Position Based on FSA's response, we accept management decision on Recommendations 1, 2, 3, 6, 8, 12, and 13. Management decisions can be reached for Recommendations 4, 5, 7, 9, 10, 11, and 14 once FSA has provided us with the additional information outlined in the OIG Position sections of the report.

Abbreviations Used in This Report

AUSA	Assistant United States Attorney
CED	County Executive Director
COC	County Committee
DAFP	Deputy Administrator for Farm Programs
ECP	Emergency Conservation Program
FIP	Feed Indemnity Program
FSA	Farm Service Agency
HIP	Hurricane Indemnity Program
LIP	Livestock Indemnity Program
LLC	Limited Liability Corporation
NAP	Non-Insured Crop Disaster Assistance Program
OIG	Office of Inspector General
OIG-I	Office of Inspector General – Investigations
PCIE	President’s Council on Integrity and Efficiency
STC	State Committee
TIP	Tree Indemnity Program
USDA	U.S. Department of Agriculture

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Background and Objectives

Background

As part of the U.S. Department of Agriculture (USDA), the Farm Service Agency (FSA) assists producers who suffered losses of livestock and feed due to natural disasters, such as hurricanes. In 2005, Hurricanes Katrina, Ophelia, Rita, Dennis, and Wilma (“the 2005 hurricanes”) struck the Atlantic and Gulf Coast regions. Agricultural producers in these States suffered significant livestock deaths as a result of the storms. As of March 1, 2006, FSA reported nearly 6.5 million eligible livestock deaths in the affected States.

In response to the unprecedented damages caused by the hurricanes, USDA assembled a \$4.5 billion aid package to assist producers and rural communities in the recovery process. As part of this package, in October 2005, the Secretary established four hurricane disaster programs administered by FSA using \$250 million in Section 32 funds. In the event of unusual and adverse market conditions, such as those resulting from a natural disaster, Section 32 of the Agricultural Adjustment Act of 1935 grants authority to the Secretary to reestablish farmers’ purchasing power by providing funds that will help them return to their normal production rates.

We reviewed two of the four hurricane disaster programs established by the Secretary: the 2005 Hurricanes Livestock Indemnity Program (LIP) and the Feed Indemnity Program (FIP).⁴ LIP provided payments to eligible livestock owners and contract growers⁵ who lost livestock due to an applicable 2005 hurricane. FIP provided producers the opportunity to self-certify to livestock inventories prior to the disaster as a basis for compensating their feed losses or increased feed costs. FSA accepted applications for the programs from May 17, 2006, through September 29, 2006.

FSA distributed almost \$22.3 million in LIP benefits to 1,633 applicants and over \$4.8 million in FIP benefits to 4,237 applicants. Presidential and Secretarial disaster declarations made 261 counties in Alabama, Florida, Louisiana, Mississippi, North Carolina, and Texas eligible for both programs. Hurricanes Katrina and Rita especially devastated Louisiana’s livestock producers resulting in a little over half, or 845, of the applicants receiving about 85 percent, or approximately \$19 million of the \$22.3 million in LIP benefits disbursed by FSA.

⁴ FSA also administered the Hurricane Indemnity Program (HIP) and the Tree Indemnity Program (TIP) as its part of the Government’s hurricane relief effort. OIG has also conducted reviews of these two related programs under Audit Nos. 03601-13-At and 50601-15-At.

⁵ The term “contract grower” for LIP generally means a person, other than the livestock owner, who possessed an independent financial interest in the eligible livestock or products derived from such livestock, as defined and limited by the terms and conditions of a contractual written agreement with the livestock owner on the day the livestock perished.

To be eligible for LIP and/or FIP benefits, a producer must have been an owner or contract grower in possession of eligible livestock on the day of the disaster or, in the case of LIP, when the livestock perished. Eligible livestock for both programs included beefalo, beef cattle, buffalo, dairy cattle, deer, equine, goats, sheep, and swine. (LIP also included poultry and egg-laying hens.) The livestock must have been located in an eligible disaster county, and for LIP, the livestock must have perished as a direct result of an applicable hurricane during a designated 60-day disaster period. In addition, for both programs, all livestock must have been maintained for commercial use as part of a farming operation on the day the livestock perished.

FSA required producers interested in receiving LIP or FIP benefits to file a number of documents to assist county personnel in their eligibility determinations. Producers completed an automated “2005 Hurricane Disaster Programs Application,” form FSA-573, at the FSA office serving the county where the livestock was physically located at the time of the disaster or when the livestock perished. If they did not already have one on file, applicants also completed a Farm Operating Plan, which provided the basis for a “person” determination for payment limitation purposes for program year 2005.⁶ An \$80,000 payment limitation applied to each “person” eligible to receive LIP or FIP benefits. Applicants already participating in other 2005 FSA programs were not allowed to change their “person” determination when applying for LIP or FIP.

As a means of ensuring that applicants claimed reasonable livestock losses for LIP, FSA’s *Livestock Programs* handbook (4-DAP (Rev.1)) required applicants to also provide verifiable proof of loss.⁷ If documentation of this nature was not available, applicants could support their losses through a third-party certification process. Third-party certifiers were typically neighbors, hired hands, veterinarians, or other individuals with first-hand knowledge of an applicant’s livestock. They certified to essential eligibility information, including the kind and number of livestock that perished as a result of an applicable hurricane. Certifiers also provided specific details describing how they learned of the livestock deaths.⁸

⁶ A “person” for payment limitation purposes may be many things, including an individual; a limited liability partnership; a limited liability company; a corporation; a joint stock company; an association; a limited stock company; a limited partnership; an irrevocable trust; a revocable trust together with the grantor of the trust; an estate; a charitable organization; and a State, political subdivision, or agency thereof. For an individual or entity to be considered a separate “person,” the individual or entity must have a separate and distinct interest in the land or crop involved, exercise separate responsibility for this interest, and maintain funds or accounts separate from that of any other individual or entity for this interest.

⁷FSA Handbook 4-DAP (Revision 1), “Livestock Programs,” subparagraph 451 D “Proof of Death” (Amendment 15, dated April 13, 2006). The *Livestock Programs* handbook here and throughout this report refers to FSA Handbook 4-DAP (Revision 1) and its amendments.

⁸FSA Handbook 4-DAP (Revision 1), “Livestock Programs,” subparagraph 451 E “Third Party Certifications” (Amendment 18, dated May 23, 2006).

In order for them to use a third-party certification as support for LIP livestock losses, FSA also required applicants to provide verifiable proof to reasonably substantiate their beginning inventory or the number of livestock owned prior to the hurricanes.⁹ Proof of beginning livestock inventories was to assist FSA in guarding against program abuse by collecting inventory evidence from the applicant during the application process so it was available for spot check. Acceptable inventory evidence included veterinary records, tax inventory records, sales and purchase receipts, and previous FSA livestock program documentation. Without beginning inventory proof, FSA had no assurance that claimed losses were reasonable. In addition to verifying the number of livestock deaths suffered, applicants also had to certify to the location of the animals at the time of their death as well as that these deaths occurred during the disaster period and were a direct result of an applicable hurricane.

Before approving LIP applications, the county committee (COC) and county executive director (CED) were to ensure that all eligibility requirements had been met. For example, COCs and CEDs determined if all supporting documents had been submitted, if claimed livestock deaths were reasonable, if beginning inventory was verifiable, and if third-party certifiers provided all necessary information. Applications submitted by applicants claiming to have lost everything, including livestock records, as a result of an applicable hurricane were to be elevated to FSA's national office for its review and determination.

FSA then calculated program payments by multiplying the national payment rate established for each livestock kind/type/weight range by the number of eligible livestock claimed by an applicant. Separate payment rates were established for livestock owners and contract growers. The payment rate for eligible livestock owners was 75 percent of the average fair market value of the livestock. For contract growers, the rate was 75 percent of the average income loss sustained by the grower with respect to the dead livestock.

Objectives

Our objective was to evaluate the effectiveness of FSA's program delivery of LIP and FIP and the adequacy of its management controls to ensure program integrity. Specifically, we assessed FSA's controls for processing and approving LIP and FIP applications to determine if they adequately protected the program against fraud, waste, and abuse.

⁹FSA Handbook 4-DAP (Revision 1), "Livestock Programs," subparagraph 451 F "Proof and Reasonableness of Livestock Inventory" (Amendment 19, dated August 16, 2006).

Findings and Recommendations

Section 1 Unsupported LIP Payments

FSA personnel worked diligently to provide almost \$22.3 million in LIP payments to 1,633 applicants who suffered significant storm related livestock losses, and over \$4.8 million to 4,237 applicants for FIP, even though local FSA personnel were overwhelmed by efforts to administer numerous USDA disaster related programs almost simultaneously and often with limited staff.

While FSA effectively administered many aspects of LIP, some procedures need improvement to strengthen the integrity of the program. First, many applicants did not have proof of death documentation and relied on third-party certifications to substantiate their livestock losses. On more than one-half of the LIP applications reviewed either the third-party certifications did not have sufficient information concerning the number or type of livestock that perished or the cause of death and/or applicants stated beginning inventories were not supported by verifiable documentation.

Finding 1

Third-Party Certifications Did Not Support Claimed Losses

Many producers in hurricane-ravaged counties lost not only their livestock, but their homes and other possessions as well. In the immediate aftermath, producers in many coastal areas simply found their livestock had vanished due to the powerful tidal surges. Other producers, focusing on storm clean up, disposed of deceased farm animals without obtaining any documentation of their livestock losses. Factors such as these left relatively few producers with actual proof of death documentation; therefore, a large number of them relied on third-party certifications as their only means to apply for LIP benefits. Our fieldwork showed that 97 of the 115 LIP applications reviewed, or almost \$2.6 million of the \$2.7 million in program payments, relied on third-party certifications.

In order to receive LIP benefits using the third-party certification process, FSA required applicants to provide two vital pieces of information. First, the applicant needed to provide written, signed, and dated statements from third-parties that included specific details, such as number and type of perished livestock, affiliation to the applicant, and how the third-party had knowledge of the animals' death. Second, applicants using third-party certifications needed to provide FSA with

verifiable evidence,¹⁰ such as veterinary or bank records, which reasonably supported their beginning inventory prior to the hurricanes. However, we found that 53 of 97 LIP applications had third-party certifications that did not include the number, type, and/or cause of death, or were missing verifiable information concerning the beginning inventories. County/parish FSA office personnel approved 53 applications without following program procedures that specified third-party certification requirements because (1) FSA office personnel knew that verifiable beginning livestock inventory records were not available from the applicants due to the hurricane(s), (2) the smaller operations only had documentation that was considered unverifiable by FSA,¹¹ and/or (3) FSA office personnel were aware of the applicant's livestock operations and inventory. As result, FSA issued unsupported or inadequately supported LIP payments totaling almost \$922,347.¹²

Applicants Submitted Incomplete Third-Party Certifications to Support Claimed Livestock Losses

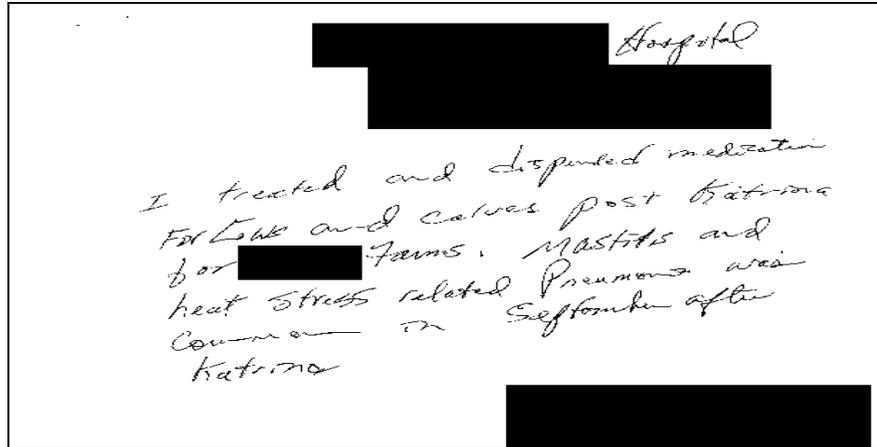
In order to approve LIP applications based on third-party certifications, the COC must be satisfied with the applicant's livestock inventory documentation. If the applicant provided inaccurate or unreasonable supporting documentation, the COC or CED should disapprove the LIP application. However, we found that FSA county offices did not disapprove 9 of 97 LIP applications even though third-party certifications were not properly signed, dated, and/or detailed in their accounts of claimed livestock losses.

The following is an example of an insufficient third-party certification. The veterinarian's certification provides that, "[the veterinarian] treated and dispensed medication for cows and calves post Katrina for [the producer]. Mastitis and heat stress related pneumonia was common in September after Katrina":

¹⁰FSA Handbook 4-DAP (Revision 1), "Livestock Programs," subparagraphs 451 E "Third Party Certifications" and 451 F "Proof and Reasonableness of Livestock Inventory" (Amendments 18 and 19, dated May 23 and August 16, 2006, respectively).

¹¹ Unverifiable evidence would include an applicant's hand written notes on a calendar, notebook, etc.

¹² \$61,376 of this amount is also included in Finding 5 (see exhibit A).



(OIG redacted this copy of the document to prevent the publishing of private information.)

This third-party certification from a veterinarian does not provide the kind, type, or number of livestock deaths. It only states that the veterinarian “treated and dispensed medication for cows and calves post Katrina” for the applicant.

We also identified the following additional weaknesses with third-party certifications:

- In Florida, four applicants did not provide specific details on how their livestock perished; rather, the third-party certifications only showed that the livestock died during the timeframe of the disaster period. We interviewed the third-party certifiers and were able to ascertain more specific details on the conditions (i.e., flying debris, mud, storm stress, etc.) that may have been factors in the deaths of the animals but not the cause of death for each animal claimed.
- In Louisiana, two applicants’ third-party certifications “acknowledged” or “verified” the livestock losses, but did not show how the livestock died or how the third-party knew the animals died. Another producer’s LIP application was approved based on a partial fax of a third-party certification that did not include the number of dead livestock.
- In Mississippi, one applicant prepared his own third-party certification stating that he had no other proof of loss other than his neighbor’s signature and word. The neighbor signed the certification attesting to the livestock loss.

Applicants Submitted Inadequate or No Beginning Inventory Documentation

Program procedures required that applicants needed proof of their livestock beginning inventory as well as verifiable evidence, such as veterinary or bank records that would reasonably support their certification. Our review showed that 46 of 97 third-party certifications sampled did not provide verifiable evidence to support the beginning inventory certification.¹³ Of the 46 applicants without beginning inventory support, 24 of them told us either they did not have documentation to support their beginning inventory or their inventory records were lost as a result of the hurricane(s). The FSA national office verbally advised State office personnel during training to forward to the national office any applications submitted by applicants that could not provide any beginning inventory documentation due to the effects of the hurricanes. However, local FSA personnel stated that they were not informed of this requirement.

For the approved LIP applications described below, applicants did not have verifiable evidence to support their beginning inventories:

- In Plaquemines Parish, we found two applications included unsupported handwritten beginning inventories. One LIP application was approved by local FSA office personnel for payment based on the applicant's written beginning inventory and a statement that his records were lost as a result of the hurricane. Another LIP applicant provided a piece of paper representing his claimed beginning inventory and an Internal Revenue Service's Schedule F (Form 1040), "Profit or Loss For Farming." However, the Schedule F did not show any livestock inventory support for the claimed beginning inventory. The CED stated that both applications were approved based on common knowledge that the applicants raised the livestock. No verifiable proof of inventory was provided for either application.
- Four Vermillion Parish applicants did not have evidence of beginning inventories. Three of them claimed they did not have a beginning inventory because they inherited the livestock and did not have any documentation to support a beginning inventory. All three claimed they lost their entire inventory as a result of the hurricane. Further review by OIG and FSA personnel showed that two of the three applicants sold livestock after the hurricane. The two applicants stated that

¹³ Two applicants were identified as having problems with both the third-party statement and their beginning inventory documentation (9 plus 46 equals 55 minus 2 equals 53). The two applicants and their corresponding LIP payments were only counted once.

they mistakenly certified to their losses but not their beginning inventories. The FSA parish office reduced one applicant's payment and requested repayment from the other. The COC determined the third applicant's application was accurate. The fourth applicant self-certified a beginning inventory that included, in part, eight bulls. The applicant claimed loss of all eight bulls. However, sales receipts provided by the applicant showed two bulls were sold after the hurricane. The county office approved the application for the loss of eight bulls, even though evidence showed the loss of six bulls. The applicant stated that the beginning inventory should have been ten bulls.

Parish office officials stated these four applications were approved without adequate or verifiable support for beginning inventory because the disaster programs caused extra workload for the staff and they did not have time to thoroughly review the documentation. In addition, the four applicants were related to a COC member who "vouched" for their cattle operations since they did not have information to support the beginning inventories.

- In the four Mississippi counties visited, 40 of the approved LIP applications reviewed used the third-party certification process. The third-party certification process requires the applicant to establish a beginning inventory. For 39 of these applications, we found that the applicants used their 2005 FIP records for their beginning inventory. However, the 2005 FIP records had not been subject to spot check and were not considered verifiable documentation by the FSA national office.

We discussed the documentation problems related to third-party certifications with FSA State office personnel who agreed with our findings. Because many applicants did not have proof of loss documentation needed to support their livestock losses, FSA State office personnel believed the third-party certification process was an effective alternative. However, FSA State office personnel commented that the process needs improving. One FSA State office representative suggested that the use of a standardized form to collect the required information from the third-party would help alleviate confusion among the applicant and the third-party certifier.

We concluded that FSA needs to take steps to improve the third-party certification process. Specifically, improve the process to document the third-party information about the number, type/kind, and knowledge of the cause(s) of death of the livestock and the applicant's verifiable information concerning the beginning inventory. Without the number

and type of livestock losses, specific details concerning the loss of livestock and documentation to reasonably support beginning inventories, FSA will not be able to perform meaningful spot checks, thereby undermining the integrity of the LIP program.

Recommendation 1

For future programs, ensure that applications using third-party certification as support for losses clearly identify what is required from the applicants and third-party certifiers to clearly substantiate the applicants' claimed losses.

FSA Response

FSA will ensure that future program regulations and handbook procedure clearly substantiate the applicant's claimed livestock losses. FSA will develop a standardized form to collect the required information from the applicant and third party when this is the only method by which an applicant can substantiate livestock losses.

OIG Position

We accept FSA's management decision.

Recommendation 2

For future programs, ensure that program requirements relating to the absence of verifiable evidence for beginning inventories are clearly stated in policy and procedures and on the program application.

FSA Response

FSA will ensure that future program regulations and handbook procedure clearly define program requirements relating to the absence of verifiable evidence for beginning inventory.

OIG Position

We accept FSA's management decision.

Recommendation 3

Identify all applications that relied on third-party certifications and determine if the third-party statements and/or beginning inventory documentation omitted from the application met program requirements.

FSA Response

The applicable FSA county offices in Florida, Louisiana, and Mississippi will be instructed to identify all applicants that relied on third-party certifications and determine if the third-party statements and/or beginning inventory documentation omitted from the applications meet program requirements. This review will be completed by April 1.¹⁴

OIG Position

We accept FSA's management decision.

Recommendation 4

For each application for which it is determined (under Recommendation 3) that the third-party statements and/or beginning inventory documentation omitted from the application did not meet program requirements, recover resultant overpayments.

FSA Response

County offices will be instructed to recover resultant overpayments for each application for which it is determined (under Recommendation 3) that the third-party statements and/or beginning inventory documentation omitted from the application did not meet program requirements. County offices shall initiate debt collection measures by May 1, unless the finality rule is applicable.

OIG Position

We concur with FSA's proposed corrective actions. To reach management decision, we need to be provided documentation for each overpayment showing that a bill for collection has been sent and the amount entered as a receivable in the agency's accounting records, or evidence that the overpayment has been collected. If the finality rule is applicable, we need documentation supporting the decision and the appropriate approval authority.

Finding 2

Questionable Beginning Livestock Inventory Documentation

Six of 63 applicants reviewed in Cameron Parish had beginning inventories based on questionable livestock vaccine receipts that were out of sequence or could not be substantiated with vendor records. Four of the six applicants used standardized receipts that were manually

¹⁴ We confirmed with FSA that the applicable year for all dates provided in its response was 2009.

completed and dated in a manner that did not correspond with the receipt sequence number. Two others used completely handwritten receipts that were not numbered and could not be verified with vendor records. We questioned all six of these LIP payments totaling \$427,276. The Office of Inspector General - Investigations (OIG-I) opened an investigation related to the documentation supporting livestock losses for LIP during our audit, and we suspended the audit work related to these applicants due to their ongoing investigations.

LIP procedures allowed applicants to obtain a certification from a third party to establish their livestock losses. To improve program integrity, applicants using third-party certification must also provide verifiable documentation to reasonably support their livestock inventory at the time the deaths occurred.

Four of the six applicants provided vaccine receipts from one vendor to support their beginning inventory. Review of these receipts showed irregularities between the dates and the sequence numbering. For example, the receipts were in close order sequentially, yet there were long periods between the dates of purchases (see receipts 6450, 6451, and 6457 in the table below). Applicants B and C provided receipt number 6450 and 6451, dated September 4, 2004, and April 8, 2005, respectively. Applicants F and G provided receipt number 6457, dated August 13, 2004, which was prior to applicants B and C receiving receipt number 6450, dated September 4, 2004.

Applicants	Receipt Number	Receipt Date
B and C	6376	4/10/2004
	6450	9/4/2004
	9673	9/4/2005
	6451	4/8/2005
F and G	6457	8/13/2004
	41861	7/29/2004

We also identified two applicants who provided handwritten receipts with no numbering system to support their beginning inventory. The two applicants (H and I) were part of a family (at least five members) with several different cattle operations. The vendor stated that one of the family members purchased vaccine for all of the family's cattle operations (including H and I) and the vendor supplied separate receipts to each family member. FSA requested that OIG-I investigate the LIP claims of four of the family members. OIG-I accepted the referral for investigation.

Due to the pending investigations of the questionable invoices, OIG-I requested that we conclude our review of these applications. FSA will need to coordinate corrective actions based upon the outcome of these investigations.

Recommendation 5

In coordination with OIG-I, recover overpayments related to the six cases involving questionable beginning livestock inventories.

FSA Response

The Louisiana State FSA Office will be instructed to coordinate corrective actions, including recovering overpayments, with OIG-I based upon the outcome of the investigations of the six cases involving questionable beginning livestock inventories in Cameron Parish. The Louisiana State FSA Office will instruct the Cameron Parish FSA Office to initiate collection measures to recover any overpayments identified by OIG-I; no later than 30 calendar days after OIG-I notifies the Louisiana State FSA Office of the outcome of its investigations into the six cases involving questionable beginning livestock inventories.

OIG Position

We concur with FSA's proposed actions. To reach management decision, at the completion of the OIG investigations, we need to be provided documentation for each overpayment showing that a bill for collection has been sent and the amount entered as a receivable in the agency's accounting records, or evidence that the overpayment has been collected.

Finding 3

Claimed Livestock Losses Exceeded Beginning Inventory

In Vermillion Parish, Louisiana, 3 of the 30 applications reviewed claimed livestock losses in excess of their beginning inventory. FSA office employees stated they did not have enough time to perform their regular duties and determine the accuracy of the documentation supporting the claimed livestock losses. As a result, the applicants received overpayments totaling about \$117,000.

Our review showed that three applicants, J, K, and L made 2005 LIP livestock loss claims using third-party certifications that were in excess of their beginning inventories.

Applicants J and K showed they each had a 50-percent share in ownership of 322 head of livestock and claimed hurricane-related losses of 214 head of livestock. However, sales documentation showed they sold 166 head of their livestock after the hurricane. We concluded that the livestock losses and sales exceeded their beginning inventory by 58 head, resulting in excessive 2005 LIP payments totaling over \$23,000.

Applicant J also individually claimed 100-percent share of 133 head of livestock (in addition to the 322 head of livestock previously claimed). The applicant claimed a loss of 110 of the 133 head of livestock. The applicant did not provide FSA any additional documentation for the beginning inventory. The applicant provided records showing the sale of 28 head of cattle after the hurricane. Our review also showed the applicant claimed a beginning inventory of one bull and the death of one bull due to the hurricane; however, sales receipts provided by the applicant showed the sale of two bulls after the hurricane. Based on the lack of documentation and inconsistencies with the claimed inventory and sales documentation, we question the entire LIP payment of \$67,158 for the claimed loss of 110 head of livestock.

Applicant L claimed 100-percent share ownership of 44 head of livestock and that all of the livestock perished as a result of the hurricane. The applicant provided a third-party statement supporting the loss; however, the applicant did not provide any documentation for the beginning inventory of 44 head of livestock. Without support for the beginning inventory, we questioned the entire payment of \$26,336 in LIP benefits.

We referred all three applicants to OIG-I, and their investigation showed that FSA did not review sales and inventory records and that one of the applicant's health may have been part of the reason(s) for the discrepancies. The investigation results were presented to the Assistant United States Attorney (AUSA) who declined to prosecute. Although the AUSA did not prosecute the case, OIG-I communicated to the Louisiana State FSA Office that the FSA local office employees did not properly analyze sales records and livestock inventory when determining the LIP payment amounts. We believe that local FSA officials and the COC should have reconciled the three applicant's sales and inventory records prior to issuing the LIP payments. Therefore, local FSA officials need to review and analyze the supporting documentation for the cited applicants and establish the number of livestock lost due to the hurricane and determine the correct LIP payment.

Recommendation 6

Review the LIP applications and supporting documents for applicants J, K, and L, and establish the number of livestock lost due to the hurricane.

FSA Response

The Vermillion Parish FSA Office will be instructed to review the LIP applications and supporting documentation for applicants J, K, and L and establish the eligible number of livestock lost due to the hurricane by April 1.¹⁵

OIG Position

We accept FSA's management decision.

Recommendation 7

For each application filed by J, K, or L for which it is determined (under Recommendation 6) that the numbers of livestock lost due to the hurricane are less than the numbers on which payment was based, recover resultant overpayments.

FSA Response

The Vermillion Parish FSA Office will be instructed to recover resultant overpayments for each application filed by applicants J, K, and L for which it is determined (under Recommendation 6) that the number of livestock lost due to the hurricane are less than the numbers on which payment was based. Vermillion Parish FSA Office shall initiate debt collection measures by May 1.¹⁶

OIG Position

We concur with FSA's proposed actions. To reach management decision, we need to be provided documentation for each overpayment showing that a bill for collection has been sent and the amount entered as a receivable in the agency's accounting records, or evidence that the overpayment has been collected.

¹⁵ See footnote 14.

¹⁶ See footnote 14.

Section 2 Farm Operating Plans

Finding 4

Farm Operating Plans Were Improperly Changed to Increase Program Payments

Our review of seven entities in Plaquemines Parish, Louisiana, to assess the propriety of LIP payments, disclosed that two entities improperly increased the number of persons eligible for LIP payments. The entities were allowed by FSA parish personnel to submit revised Farm Operating Plans for the 2005 crop year in 2006.¹⁷ The CED cited the timing of LIP, inexperience in payment limitation issues, and an extreme workload as the contributing factors for allowing the two entities to increase the number of persons eligible for LIP payments in 2006 for the 2005 crop year. As a result, the entities received questionable 2005 LIP payments totaling \$400,000.

In order to participate in LIP, applicants must have completed a Farm Operating Plan. FSA uses Farm Operating Plans to determine the number of “persons” in the farming operation who are eligible to receive program payments up to the established (\$80,000) limit per “person.” The local FSA COC reviews the submitted information and sends the producer a “person” determination letter to inform them of the number of “persons” eligible for payment limitation purposes. In doing this, FSA establishes a payment limitation or a maximum dollar amount that each “person” associated with the farming operation can receive. Once a farming operation has established its “person(s)” for payment limitation purposes for a crop year, the entity must operate as such for the entire crop year, unless significant changes occur to the entity during that time. According to FSA procedures, when an applicant has already received a person determination for previous 2005 program purposes, the applicant should use the same “person” determination for 2005 LIP purposes.¹⁸

The Plaquemines Parish CED stated that the two entities, Entities A and B, were allowed to change their 2005 Farm Operating Plans for several reasons. First, the sign up for the 2005 LIP started in late May 2006, and the CED said they did not think about reviewing 2005 USDA program payments before revising 2005 Farm Operating Plans. Second, the parish FSA office staff had very little experience handling payment limitation issues. Lastly, the CED indicated that an excessive workload with limited staff trying to simultaneously administer several hurricane-related disaster programs contributed to the problem.

¹⁷ In a similar instance, the State office declined an applicant’s request to submit a revised Farm Operating Plan to increase the number of “persons” eligible for LIP payments because the applicant had previously received a 2005 Direct and Countercyclical Program payment.

¹⁸ FSA Handbook 4-DAP (Revision 1), “Livestock Programs,” subparagraph 423 B “Payment Limitation” (Amendment 15, dated April 13, 2006).

Entity A Changed from a One “Person” Entity to a Four “Person” General Partnership

For program years 2000 through 2002, Entity A operated as a general partnership between two brothers according to their Farm Operating Plan. The brothers submitted a partnership agreement stating they would operate as Entity A with all income and expenses split equally between them. In 2003, the brothers submitted a revised Farm Operating Plan that represented Entity A as a one “person” Limited Liability Corporation (LLC). The members of the LLC submitted tax records to support the claim they operated as a LLC. Entity A continued to represent itself as a one “person” LLC when it applied for the 2005 Non-Insured Crop Disaster Assistance Program (NAP) and Emergency Conservation Program (ECP) at the FSA offices in Plaquemines and St. Tammany Parishes, respectively, and received over \$55,000 in payments.

In June 2006, on the same day Entity A applied for hurricane related LIP, the brothers submitted a revised 2005 Farm Operating Plan to the Plaquemines Parish FSA Office showing they operated as a four “person” general partnership comprised of the two brothers and their spouses. Entity A’s CPA firm faxed a letter to the FSA office stating that Entity A was not legally registered with the Louisiana Secretary of State as a LLC.¹⁹ The CED confirmed through the Secretary of State’s website that Entity A was not listed as a LLC. The CED concluded that since Entity A was not legally a LLC, the brothers could change their 2005 Farm Operating Plan to show they operated as a four-member partnership. This increased the number of “persons” eligible for payment from one “person” to four “persons.” The Plaquemines Parish COC then approved the revised Farm Operating Plan and issued \$320,000 (4 times \$80,000) in LIP benefits to Entity A. We concluded Entity A misrepresented its operation and should be required to refund \$320,000 in LIP payments.

The applicants stated that although their spouses were never included on any of the prior Farm Operating Plans, the spouses have always been a part of the cattle operations. The applicants also stated that FSA completed the Farm Operating Plans, and they merely signed the forms as instructed by FSA personnel. However, they certified that all information entered on the Farm Operating Plans showing they were a LLC was true and correct and that they understood furnishing incorrect information would result in forfeiture of payments and the assessment of a penalty.

¹⁹ Louisiana Secretary of State personnel stated that Entity A could be operating as an unregistered LLC.

We requested that FSA Louisiana State Committee (STC) make a determination on the appropriate “person” determination for Entity A. In its April 9, 2008, meeting, the STC determined that the previous form CCC-502s were filed in error because the operation was carried out as a general partnership (a four-person joint operation), rather than a limited liability company. STC cited a memo from the national office advising FSA field offices to accept new form CCC-502s if applicants can substantiate that they operate their land as husband and wife. Entity A’s change in operation was substantiated, in part, by a change made to IRS form 1065, Schedule B, which showed they were a “domestic general partnership” and had filed joint tax returns in previous years. The STC noted that Louisiana is a community property State, and each spouse is entitled to a 25 percent share of the partnership’s income and losses. The STC also determined that the ECP and NAP applications and payments are incorrect and must be refunded. It further noted that records in the Louisiana Secretary of State’s office reflected no changes from a general partnership to a limited liability company.

We do not concur with STC’s determination that the entity operated as a four-person joint operation. First, the entity had previously certified that all information was true and correct when it signed the Farm Operating Plans in 2003 and 2005 as a LLC, and in 2005 when it provided tax records to support the claim that it operated as a LLC. Second, making a change to a tax form to show a change in operation does not ensure that the entity amended its tax returns, and the STC did not document how it ascertained the revised documents were submitted to the IRS. A change to a tax document would not substantiate that the entity operated as a general partnership. Third, the STC cited a memo from the FSA national office that purportedly advised the Louisiana FSA State Office to allow changes to Farm Operating Plans under certain circumstances. We do not believe the memo was intended as an authorization to make changes. Rather, the memo is an acknowledgement of wording to be used to allow changes in Farm Operating Plans if certain conditions are met. We believe the STC determination is in error and that the case should be reviewed by the Deputy Administrator for Farm Programs (DAFP) for a final determination.

Entity B Changed from One “Person” to Two “Persons” for Payment by Adding the Applicant’s Spouse to the 2005 Farm Operating Plan

Entity B, a COC member, indicated he operated as one “person” on his 2000 Farm Operating Plan and received 2005 NAP and HIP payments of about \$3,100.²⁰ In July 2006, after the 2005 LIP was announced,

²⁰ The producer certified that all information on the Farm Operating Plan was true and correct and furnishing incorrect information would result in forfeiture of payments and the assessment of a penalty.

Entity B and the spouse submitted a new Farm Operating Plan indicating that they were equal partners in the operation and applied for LIP benefits totaling \$160,000 (two times \$80,000). The applicant stated that the spouse had contributed to the farm operations from the beginning, even though the applicant was determined one “person” for payment purposes. We believe that because Entity B previously collected program payments as one “person,” the entity should be limited to one \$80,000 LIP payment and refund \$80,000 in unearned LIP payments.

We also requested that FSA Louisiana STC make a determination on the appropriate “person” determination for Entity B. In its April 9, 2008, meeting, STC determined that the Farm Operating Plans filed for the operations were correct. Specifically, STC determined that two separate operations existed and one of the operations, a husband and wife general partnership, qualified for two payments totaling \$160,000 in 2005 LIP benefits. The second operation, an individual, qualified for 2005 NAP, ECP, and HIP. STC based the general partnership operation determination on the joint purchase of a cattle herd in 1988 and the husband and wife’s jointly filed income taxes over the course of 22 years. STC based the individual determination on individual ownership of land. The Office of the General Counsel (OGC) reviewed the land ownership issue and argued that because the real estate was owned separately by the individual, it would have been improper to include the spouse on the ECP application as land owner, since the spouse had no interest in the real estate.

We do not concur with STC’s determination of two operations. First, the two entities were not operated in a separate and distinct manner because the individual operation received NAP and ECP payments on land owned/operated by the husband and wife general partnership operation. Therefore, the two operations did not maintain separate and distinct farming operations necessary for separate person determinations. Second, the form CCC-502 submitted in July 2006 for the general partnership shows a 50/50 share in the joint operation but does not show that the land was contributed by the individual operation as OGC argued (i.e., the spouse did not have an interest in the land). Third, we do not believe that filing joint tax returns represents how the farming operation was conducted. We believe the producer and spouse should be combined as one person for payment limitation purposes.

We believe that both STC determinations are in error and should be reviewed by DAFP for a final determination.

Recommendation 8

For Entities A and B, have the DAFP make a final “person” determination.

FSA Response

The Louisiana State FSA Committee requested relief authority for acceptance of revised Farm Operating Plans for A and B. The acceptance of such Farm Operating Plans would allow the recognition of the increase in the number of “persons” 2005 payment limitation purposes in both operations. These requests for relief for A and B were both denied. These denials of relief affirmed the “person” determinations previously made and of record for A and B for 2005 payment limitation purposes.

OIG Position

We accept FSA’s management decision.

Recommendation 9

For each case (Entity A and/or B) for which it is determined (under Recommendation 8) that the STC “person” determination was in error, recover any resultant improper payments.

FSA Response

The Louisiana State FSA Committee determined that information provided and actions of both Entity A and Entity B supported the increase in “persons” as represented and subsequently used as the basis for the approval and issuance of 2005 LIP payments. The nature and extent of any followup actions by the FSA national office has not been fully decided at this time. However, complete details and results of followup review and actions will be provided when concluded.

OIG Position

To reach management decision, we need to be provided documentation of the actions taken by the DAFP and, for each overpayment, documentation showing that a bill for collection has been sent and the amount entered as a receivable in the agency’s accounting records, or evidence that the overpayment has been collected. We also need expected timeframes for completion.

Recommendation 10

Assemble an independent team under the direction of the Louisiana STC and have that team review the propriety of other Louisiana cases

where applicants changed their Farm Operating Plans, effecting increases in the numbers of “persons” eligible for payment under the 2005 LIP.

FSA Response

DAFP is currently reviewing different means and options by which to identify recipients of 2005 LIP payments in these parishes that also had a change recorded in the system reflecting of an increase in the number of “persons” for 2005 payment limitation purposes. Once these recipients are identified, a review of such cases will be initiated and completed by the means available.

OIG Position

To reach management decision, we need to be provided documentation showing the methodology used to identify changes to Farm Operating Plans that increased the number of “persons” eligible for payments under the 2005 LIP and the results of the reviews performed to determine the propriety of changes that increased the number of “persons” eligible for payment. We also need expected timeframes for completion of these actions.

Recommendation 11

For each case for which it is determined (under Recommendation 10) that the producers improperly changed their Farm Operating Plans and increased the number of “persons” for 2005 LIP purposes, recover any resultant improper payments.

FSA Response

Recovery will be initiated of any 2005 LIP benefits determined to be issued in error as the result of improper changes and increases in the number of “persons” for 2005 payment limitation purposes.

OIG Position

To reach management decision, we need documentation for each overpayment identified by the review showing that a bill for collection has been sent and the amount entered as a receivable in the agency’s accounting records, or evidence that the overpayment has been collected.

Section 3 Program Improvement

Finding 5

Excessive Timeframe Allowed Claims for Livestock Losses Not Directly Related to the Disaster

Disaster programs like LIP are intended to assist producers whose livestock losses are a direct result of a disaster event such as a hurricane, but not those attributed to normal mortality. However, FSA established timeframes that allowed producers to claim livestock losses that were not directly related to the hurricanes. As a result, in Okeechobee County, Florida, FSA paid over \$61,000²¹ on late term losses that may have resulted from natural mortality (i.e., old age, broken legs, calving problems, etc.) rather than the hurricanes.

During the implementation of the disaster programs, FSA established a 60-day period for attributing losses to hurricanes beginning with the date the hurricane made landfall. FSA based this timeframe on discussions with State FSA office personnel, extension service, and university agricultural professors. FSA national office officials also stated that producers in some areas of Louisiana struggled to find livestock weeks after they were struck by multiple hurricanes; therefore, the 60-day period seemed appropriate. However, we noted that in Florida some counties were only impacted by one hurricane, and the 60-day timeframe may have been excessive.

In Okeechobee County, Florida, our analyses showed that 117 of 492 (about 24 percent) cattle losses occurred 30 to 60 days after the hurricane made landfall. In comparison, in Louisiana 5,668 of the 5,747 (about 98 percent), livestock deaths occurred within the first week of the applicable hurricane, and only six livestock losses occurred more than 30 days after the hurricane made landfall.²²

Our review of six applicants²³ in Okeechobee County, Florida, showed that four of them claimed losses throughout the 60-day disaster period. The other two applicants generally attributed livestock losses to the hurricane for about the first week after the hurricane made landfall.²⁴ Applicants that claimed losses throughout the entire 60-day disaster period claimed that stress from the hurricanes aggravated or caused the animals' deaths. However, we questioned whether deaths from conditions such as calving complications, digestive problems, or broken legs that occurred late in the 60-day disaster period could be

²¹ The actual payments for the livestock losses occurring after 30 days were limited to \$61,376 because two producers exceeded the payment limitation.

²² Our determinations were made based on the information supplied on the third-party certifications.

²³ The total LIP payments disbursed in Florida as of February 2007 was over \$600,000 to a total of 47 applicants.

²⁴ One of the two applicants did claim the loss of one cow that died 35 days after the hurricane made landfall.

attributed to the hurricanes. Other applicants stated that persistent wet conditions that remained after the hurricane resulted in contaminated water standing in pastures and wet feed also contributed to numerous cattle losses.

We discussed this issue with officials from the FSA national office who requested that the Florida State FSA Office direct the county office to consult with local independent veterinarians regarding the cause of death and gather additional details from the applicants to support their livestock claims. Florida State FSA Office personnel concurred that some of the losses appeared to include normal livestock mortality. However, the officials indicated that they do not have the expertise necessary to judge the propriety of livestock losses that occurred later in the disaster period. Without extensive documentation to establish an applicant's normal monthly livestock mortality, the Florida State FSA Office personnel stated they would have to rely on the COCs' knowledge of the applicants and their operations to determine the reasonableness of claimed livestock losses.

We believe that COCs are in a position to make reasonable determinations by evaluating the available documentation of the producers' mortality losses prior and subsequent to the disaster with the livestock losses claimed. We also believe that the longer the duration of a designated disaster period, the less assurance FSA has that claimed livestock losses are a direct result of an applicable disaster. By tailoring future disaster periods based on the specific conditions experienced in individual States or counties, FSA can better ensure that program payments are only being delivered for specific disaster related losses.

Recommendation 12

For future programs, review the facts and circumstances regarding the establishment of loss claim periods to ensure they correlate more closely with local conditions related to the disaster so that losses unrelated to disaster events can be identified and excluded.

FSA Response

FSA, for future programs, will review the facts and circumstances regarding the establishment of loss claim periods to ensure they correlate more closely with local conditions related to the disaster, so that losses unrelated to disaster events can be identified and excluded.

OIG Position

We accept FSA's management decision.

Recommendation 13

For each of the 47 LIP applications in Florida, identify those with losses claimed to have occurred 30 to 60 days after the hurricane made landfall and determine, in conjunction with appropriate local USDA personnel, such as COC members and Animal and Plant Health Inspection Service veterinarians, whether the claimed losses were supported and were the result of the hurricane.

FSA Response

The Florida State FSA Office will be instructed to review the 47 LIP applications, and identify those applications with losses claimed to have occurred 30 to 60 days after the hurricane made landfall. The State office will determine in conjunction with appropriate local USDA personnel such as COC members and Animal and Plant Health Inspection Service veterinarians, whether the claimed losses were supported and were the direct result of the hurricane. The reviews shall be completed and determinations made no later than April 1.²⁵

OIG Position

We accept FSA's management decision.

Recommendation 14

For each of the Florida applications with losses claimed to have occurred 30 to 60 days after the hurricane made landfall and for which it is determined (under Recommendation 13) that such losses were unsupported or were not the result of the hurricane, recover any unsupported payments.

FSA Response

The applicable FSA county offices will be instructed to recover unsupported payments for each application with losses claimed to have occurred 30 to 60 days after the hurricane for which it is determined and such losses were not supported, or were not the result of the hurricane. Applicable county offices shall initiate debt collection measures by May 1.²⁶

OIG Position

We concur with FSA's proposed actions. To reach management decision, we need to be provided documentation for each overpayment

²⁵ See footnote 14.

²⁶ See footnote 14.

identified showing that a bill for collection has been sent and the amount entered as a receivable in the agency's accounting records, or evidence that the overpayment has been collected.

Scope and Methodology

Following hurricanes Dennis, Katrina, Ophelia, Rita, and Wilma in 2005, FSA provided almost \$22.3 million in LIP payments to 1,633 applicants and over \$4.8 million to 4,237 applicants for feed losses under the FIP.

Our review assessed the controls established by FSA for processing and approving LIP and FIP applications to determine if they adequately protected the program against fraud, waste, and abuse. We performed fieldwork from July 2006 through April 2008. Our review was conducted at the FSA national office in Washington, D.C., as well as State and county/parish offices in Florida, Louisiana, and Mississippi.

We performed fieldwork in Louisiana and Mississippi based on estimated program participation. Within each State, we selected and visited counties/parishes based on participation levels: Cameron, Plaquemines, Vermilion, and Washington Parishes in Louisiana and Jasper, Jones, Marion, and Walthall Counties in Mississippi. We also performed fieldwork in Levy and Okeechobee Counties in Florida, based on concerns from FSA national office officials.

To accomplish our objective, we conducted our fieldwork in two phases. First, we conducted an in-depth review during FSA's LIP and FIP program sign-up periods to assess the adequacy of FSA's controls for processing and approving LIP and FIP applications. Second, we analyzed FSA program payment data for LIP and FIP.

During Phase 1, we reviewed 115 LIP applications at 9 FSA county or parish offices representing \$2,700,198, or about 12 percent of the total payments, and we reviewed a total of 137 FIP applications representing \$663,412, or about 14 percent in benefits, in the 10 counties or parishes.²⁷

During Phase 2, we judgmentally selected 87 LIP applications based on the criteria that each application shared either an address or account number with at least one other LIP application and the total benefits exceeded the \$80,000 payment limitation. This review focused on the producers who were eligible to participate in LIP and exceeded the \$80,000 payment limitation. We reviewed LIP and other FSA program documents; applicant's farm folders, including the Farm Operating Plan and supporting documents; and interviewed FSA personnel, applicants,

²⁷ We visited 10 county offices for FIP compared to 9 for LIP because the Levy County FSA Office did not have any LIP applications at the time of our review. We visited the Levy County FSA Office based upon concerns expressed to OIG by the FSA national office.

and others to determine the eligibility of applicants to receive LIP program benefits and evaluate FSA's delivery of the LIP program. These applications represented \$5,294,585 in LIP payments in three Louisiana FSA parish offices.²⁸

In conducting our review, we performed the following steps:

- Reviewed laws, regulations, procedures, and program documents to verify and evaluate program implementation.
- Interviewed agency personnel responsible for the administration of LIP and FIP operations at the national, State, and field office levels (including FSA offices in Kansas City).
- Reviewed program documents and related evidence; interviewed FSA personnel, applicants, third-parties, and other interested parties; and performed farm visits to determine the accuracy and appropriateness of LIP and FIP claims.
- Reviewed 10 randomly selected applicants from all paid or approved LIP applications at a county/parish office; if the selected LIP applicant also had a FIP application, then the FIP application was also reviewed. If less than ten FIP applications were chosen as a result of our LIP selection, we randomly selected FIP applications to complete the 10 samples. Second, we reviewed all the applications that FSA considered for mandatory spot checks, such as FSA employees, COC members, or State FSA office personnel. Lastly, we judgmentally selected up to five of the highest monetary value LIP and FIP applications and/or applications recommended by county office personnel for review.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

²⁸ Nine applicants receiving \$536,826 in LIP benefits were included in both Phase One and Phase Two reviews.

Exhibit A – Summary of Monetary Results

Exhibit A – Page 1 of 1

Finding No	Recommendation	Description	Amount	Category
1	4	Inadequate third-party certification	\$860,971*	Unsupported Costs Recovery Recommended
2	5	Questionable beginning livestock inventories	\$427,276	Questioned Costs Recovery Recommended
3	7	Excessive claimed losses	\$116,788	Unsupported Costs Recovery Recommended
4	9	Farm Operating Plans improperly changed	\$400,000	Questioned Costs Recovery Recommended
5	14	Excessive timeframes for claimed losses	\$61,376	Unsupported Costs Recovery Recommended
Total			\$1,866,411	

* The amount shown in the Finding 1 is \$922,347 which includes \$61,376 reported in finding 5. Therefore, the monetary result for Finding 1 was reduced from \$922,347 to \$860,971.



JAN 16 2009

United States
Department of
Agriculture

Farm and Foreign
Agricultural
Services

Farm Service
Agency

Operations Review
and Analysis Staff

1400 Independence
Ave, SW
Stop 0540
Washington, DC
20250-0501

TO: Director, Farm and Foreign Agriculture Division
Office of Inspector General

FROM: Philip Sharp, Chief 
Audits, Investigations, State and County Review Branch

SUBJECT: Response to Audit 03601-23 - KC, Livestock Indemnity and Feed
Indemnity Programs

Recommendation 1

The Farm Service Agency (FSA) will ensure that future program regulations and handbook procedure clearly substantiate the applicant's claimed livestock losses. FSA will develop a standardized form to collect the required information from the applicant, and third-party when this is the only method by which an applicant can substantiate livestock losses.

Recommendation 2

FSA will ensure that future program regulations and handbook procedure, clearly define program requirements relating to the absence of verifiable evidence for beginning inventories.

Recommendation 3

The applicable County FSA offices in Florida, Louisiana, and Mississippi, will be instructed to identify all applications that relied on third-party certifications, and determine if the third-party statements and/or beginning inventory documentation omitted from the applications meet program requirements. This review will be completed by April 1.

Recommendation 4

County Offices will be instructed to recover resultant overpayments for each application for which it is determined (under Recommendation 3) that the third-party statements and/or beginning inventory documentation omitted from the application did not meet program requirements. County Offices shall initiate debt collection measures by May 1, unless the finality rule is applicable.

Recommendation 5

The Louisiana State FSA Office will be instructed to coordinate corrective actions, including recovering overpayments, with OIG-Investigations (OIG-I) based upon the

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Director, Farm and Foreign Agriculture Division
Page 2

Recommendation 5 (continued)

outcome of the investigations of the six cases involving questionable beginning livestock inventories in Cameron Parish. The Louisiana State FSA Office will instruct the Cameron Parish FSA Office to initiate collection measures to recover any overpayments identified by OIG-I; no later than 30 calendar days after OIG-I notifies the Louisiana State FSA Office of the outcome of its investigation into the six cases involving questionable beginning livestock inventories.

Recommendation 6

The Vermillion Parish FSA office will be instructed to review the LIP applications and supporting documentation for applicants J, K, and L and establish the eligible number of livestock lost due to the hurricane by April 1.

Recommendation 7

The Vermillion Parish FSA Office will be instructed to recover resultant overpayments for each application filed by applicants J, K, and L for which it is determined (under Recommendation 6) that the number of livestock lost due to the hurricane are less than the numbers on which payment was based. Vermillion Parish FSA Office shall initiate debt collection measures by May 1.

Recommendation 8

The Louisiana State FSA Committee requested relief authority for acceptance of revised farm operating plans for A and B. The acceptance of such farm operating plans would allow the recognition of the increase in the number of “persons” 2005 payment limitation purposes in both operations. These requests for relief for A and B were both denied. (See attached written notifications). These denials of relief affirmed the “person” determinations previously made, and of record for A and B for 2005 payment limitation purposes.

Recommendation 9

The Louisiana State FSA Committee determined that information provided and actions of both Entity A and Entity B supported the increase in “persons” as represented and subsequently used as the basis for the approval and issuance of 2005 LIP payments (See attached information). The nature and extent of any follow-up actions by this office has not been fully decided at this time. However, complete details and results of follow-up review and actions will be provided when concluded.

Director, Farm and Foreign Agriculture Division
Page 3

Recommendation 10

DAFP is currently reviewing different means and options by which to identify recipients of 2005 LIP payments in these Parishes that also had a change recorded in the system reflecting of an increase in the number of “persons” for 2005 payment limitation purposes. Once these recipients are identified, a review of such cases will be initiated and completed by the best means available.

Recommendation 11

Recovery will be initiated of any 2005 LIP benefits determined to be issued in error as the result of improper changes and increases in the number of “persons” for 2005 payment limitation purposes.

Recommendation 12

FSA, for future programs, will review the facts and circumstances regarding the establishment of loss claim periods to ensure they correlate more closely with local conditions related to the disaster, so that losses unrelated to disaster events can be identified and excluded.

Recommendation 13

The Florida State FSA Office will be instructed to review the 47 LIP applications, and identify those applications with losses claimed to have occurred 30 to 60 days after the hurricane made landfall. Determine in conjunction with appropriate local USDA personnel such as COC members and Animal and Plant Health Inspection Service veterinarians, whether the claimed losses were supported and were the direct result of the hurricane. The reviews shall be completed and determinations made no later than April 1.

Recommendation 14

The applicable County FSA Offices will be instructed to recover unsupported payments for each application with losses claimed to have occurred 30 to 60 days after the hurricane for which it is determined and such losses were not supported, or were not the result of the hurricane. Applicable county offices shall initiate debt collection measures by May 1.

Attachments

NOV 28 2007

TO: Willie F. Cooper
SED, Louisiana State FSA Office

FROM: John A. Johnson 
Deputy Administrator for Farm Programs

SUBJECT: Request for Relief - 2005 Payment Eligibility and Payment Limitation
[REDACTED] - Plaquemines Parish - Your Memorandum of
September 7

[REDACTED] was represented to FSA as a general partnership for 2000 program payment eligibility and limitation purposes. The partnership included two brothers, [REDACTED] and [REDACTED], each with an equal share. Based on these representations, the [REDACTED] were determined two “persons” and actively engaged in farming for 2000 payment eligibility and payment limitation purposes.

In 2002, [REDACTED] was represented as a limited liability company (LLC) with [REDACTED] and [REDACTED] holding equal interest. The Agency determined that the entity was one “person” and actively engaged in farming. The [REDACTED] reaffirmed the same representations for 2005 payment eligibility and payment limitation purposes. The entity later requested and received payments under the Emergency Conservation Program and the Noninsured Crop Disaster Assistance Program for 2005 weather related disaster losses.

[REDACTED] also requested and received 2005 Hurricane Disaster Assistance under the Livestock Indemnity Program (LIP) for livestock losses in a different parish. The [REDACTED] represented the 2005 operation to be a four-member general partnership rather than an entity. The general partnership included [REDACTED] and spouse [REDACTED]; [REDACTED] and spouse [REDACTED]; all with equal shares. The LIP payment for 2005 livestock losses was issued and limited accordingly to a four “person” determination.

Upon the review of applications for 2005 Hurricane Disaster Assistance, the Office of the Inspector General (OIG) questioned the difference in representations and the number of “persons” determined for the same operation for the same program year. The increase in “persons” allowed the [REDACTED] to receive LIP benefits in an amount limited to four limitations, rather than the one limitation previously applied to all other 2005 program benefits. The Louisiana State FSA Committee had previously determined in another case that a producer could not add his spouse to a new CCC-502 to increase the number of “persons” for 2005 LIP. In comparison of the two cases, OIG requested an explanation of the determinations made.

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The State FSA Committee determined that the farm-operating plan filed by the [REDACTED] in July 2006, and representing the husband/wife general partnership, truly reflected the 2005 farming operation. The State Committee based this determination on the following: 1) the County Committee expressed personal knowledge that the [REDACTED] were operating as a two-person, husband and wife joint venture in 2005; 2) [REDACTED] and [REDACTED] stated in a letter to the Committee that [REDACTED] always assisted in the cattle business; 3) [REDACTED] and [REDACTED] purchased a herd of cattle from [REDACTED] parents and grandparents in 1988; 4) [REDACTED] and [REDACTED] have filed incomes taxes and claimed the cattle jointly for over 20 years, including 2004 and 2005; and 5) [REDACTED] and [REDACTED] have mixed their assets since their marriage in 1985, including the cattle herd purchased from her family in 1988, thus making [REDACTED] part owner of the cattle lost to Hurricane Katrina.

The State Committee found no evidence of scheme or device by the [REDACTED] to increase the number of “persons” for payment purposes. The Committee believed that the [REDACTED] were confused about which payment limitation form to file in July 2006. Prior to Hurricane Katrina, the [REDACTED] received minimal payments and most often, the payments were not impacted by the to payment limitation.

The State Committee determined that FSA erred by accepting the farm operating plan submitted by [REDACTED] that represented the farming operation strictly as an individual when in fact, the farming operation was that of multiple “persons.” The State Committee maintained that this error should not prevent the [REDACTED] from submitting the correct farm operation plan reflective of the true nature of the 2005 farming operation. The Committee, therefore, recommends relief be granted to recognize [REDACTED] as a general partnership with two “persons” in 2005 consisting of [REDACTED] and [REDACTED] with equal shares.

Equitable adjustments are allowed in a situation where the producer, to their detriment, acted in good faith based on the action or advice of an authorized representative of the Agency. The producer’s actions may be accepted as meeting the subject requirements of payment eligibility and payment limitation to the extent deemed appropriate to provide fair and equitable treatment (7 CFR §1400.8).

There was no evidence that the [REDACTED] were given erroneous information by an authorized Agency representative, or relied upon such erroneous notice or information. The [REDACTED] submitted forms and documents to the Agency, and certified that the information contained on them was true and correct. There was no evidence that the information provided by the [REDACTED], and as accepted and used as the basis by the Agency for the issuance of program benefits, was the result of improper actions of Agency representatives or erroneous program information. Therefore, the circumstances do not warrant the consideration of relief under this provision or any other relief provision.

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The CCC-502's submitted by ██████ for the years 1999-2001 indicating the farming operation was all his were considered accurate and this information and resulting determination of one "person" were used for 2005 program benefits. It was not until after Hurricane Katrina in 2006, that the ██████ informed the Agency in writing of the existence of a two-member joint operation and that the ██████ had been operating in this manner for over 20 years.

The ██████ maintained that their farming operation was a joint operation, and that all assets had been mixed since their marriage in March of 1985. However, the records reveal that ██████ applied as an individual for 2005 NAP forage losses sustained by the farming operation. Furthermore, ██████ also applied as an individual and received over \$10,000 for ECP cost-share benefits for clean-up activities following Hurricane Katrina in 2006. ██████ also applied as an individual in St. Tangipahoa Parish for NAP coverage on permanent grass on August 23, 2006. This was after ██████ and ██████ submitted a CCC-502 B certifying that they were a general partnership, and which included the land interest on which it appears that John later applied for NAP coverage and benefits.

The IRS information provided for 2005, post Hurricane Katrina, indicated that ██████ and ██████ filed a joint tax return as individuals. There was no mention of any partnership or interests in any partnerships. There was only one Schedule F completed, and that was for ██████ who claimed all of the profit or loss from farming. The Schedule F completed for ██████ lists the principle products as cattle and citrus. No mention is made of any interest in the cattle held by ██████. On Form 4684, Section B, Business and Income-Producing Property, the losses listed due to Hurricane Katrina are for farm buildings and equipment. There are no entries for the loss of livestock.

██████ and ██████ executed and filed a pre-nuptial agreement. The parties declared their intent to be separate in property and to formally renounce provisions under Louisiana Civil Code which establishes a community of acquets and gains between husband and wife. The agreement further states that all property and affects, whether owned at the time of marriage or acquired during marriage are declared to be separate property. There is no record of renunciation.

The records show that the ██████ purchased a herd of cattle from her family have jointly claimed the cattle for over 20 years. The ██████ have also filed joint tax returns. However, in an opinion provided by ██████ Deputy Associate Regional Attorney for the Office of General Counsel (OGC), these actions were not sufficient for the ██████ to have re-established a community of acquets and gains.

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OGC further added that any attempts at retroactive establishment of community at this point-in-time, could be considered a scheme or device in an effort to receive program benefits they were not otherwise eligible to receive.

The information provided does not support that [REDACTED] and [REDACTED] had a general partnership, conducted their farming operation as a general partnership in 2005, or that the livestock in which 2005 LIP benefits were received were owned jointly or part of a general partnership represented as the applicant for such benefits.

The request for relief is denied. Notify the St. John-St. Charles-Orleans Parish FSA Offices and Committee of this determination.

NOV 28 2007

TO: Willie F. Cooper
SED, Louisiana State FSA Office

FROM: John A. Johnson 
Deputy Administrator for Farm Programs

SUBJECT: Request for Relief - 2005 Payment Eligibility and Payment Limitation
[REDACTED] - Plaquemines Parish - Your Memorandum of
September 7

[REDACTED] was represented to FSA as a general partnership for 2000 program payment eligibility and limitation purposes. The partnership included two brothers, [REDACTED] and [REDACTED], each with an equal share. Based on these representations, the [REDACTED] were determined two “persons” and actively engaged in farming for 2000 payment eligibility and payment limitation purposes.

In 2002, [REDACTED] was represented as a limited liability company (LLC) with [REDACTED] and [REDACTED] holding equal interest. The Agency determined that the entity was one “person” and actively engaged in farming. The [REDACTED] reaffirmed the same representations for 2005 payment eligibility and payment limitation purposes. The entity later requested and received payments under the Emergency Conservation Program and the Noninsured Crop Disaster Assistance Program for 2005 weather related disaster losses.

[REDACTED] also requested and received 2005 Hurricane Disaster Assistance under the Livestock Indemnity Program (LIP) for livestock losses in a different parish. The [REDACTED] represented the 2005 operation to be a four-member general partnership rather than an entity. The general partnership included [REDACTED] and spouse [REDACTED]; [REDACTED] and spouse [REDACTED]; all with equal shares. The LIP payment for 2005 livestock losses was issued and limited accordingly to a four “person” determination.

Upon the review of applications for 2005 Hurricane Disaster Assistance, the Office of the Inspector General (OIG) questioned the difference in representations and the number of “persons” determined for the same operation for the same program year. The increase in “persons” allowed the [REDACTED] to receive LIP benefits in an amount limited to four limitations, rather than the one limitation previously applied to all other 2005 program benefits. The Louisiana State FSA Committee had previously determined in another case that a producer could not add his spouse to a new CCC-502 to increase the number of “persons” for 2005 LIP. In comparison of the two cases, OIG requested an explanation of the determinations made.

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The State FSA Committee determined that the changes represented by the [REDACTED], which resulted in the increase in “persons” eligible for payment, were justified and truly reflected the 2005 farming operation of the [REDACTED]. The committee provided that the [REDACTED] have operated as a general partnership under the same tax identification number since 1976. The records in the Louisiana Secretary of State’s office reflect no changes from a general partnership to a limited liability company.

The State Committee found no evidence of scheme or device to increase the number of “persons” for payment purposes. The committee found that the [REDACTED] filed the correct farm operating plan in 2000, but filed incorrect plans for an entity in 2002 and 2005. The committee firmly believes that the farm operating plan, filed in 2005 representing the general partnership correctly, represents the 2005 farming operation since it corresponds to the 1976 partnership agreement.

The State Committee determined that FSA erred by accepting the farm operating plans from the [REDACTED] for an entity in 2002 and 2005 without the supporting documentation. The committee, therefore, recommends relief be granted to recognize [REDACTED] as a general partnership with four “persons” in 2005 consisting of two brothers and their wives; all with equal shares.

Equitable adjustments are allowed in a situation where the producer, to their detriment, acted in good faith based on the action or advice of an authorized representative of the Agency. The producer’s actions may be accepted as meeting the subject requirements of payment eligibility and payment limitation to the extent deemed appropriate to provide fair and equitable treatment (7 CFR §1400.8).

The State Committee contends that the Agency’s actions of accepting incorrect farm operating plans without the required documentation should not prevent the [REDACTED] from later filing the correct plan that reflects the actual 2005 operation. In the committee’s opinion, the [REDACTED] were uncertain as to the type of forms to file since there apparently was confusion with the forms previously filed in regard to the type of operation with the Internal Revenue Service (IRS) for tax purposes. While the [REDACTED] represented to be an LLC to IRS for tax purposes, their accountant claimed this to be in error. Efforts had been unsuccessful with the IRS to correct the name and tax returns. But even though there is not a record on file with the Secretary of State to show [REDACTED] to be an LLC in Louisiana, the IRS asserted the name and file reflected an LLC.

The State Committee contends that regardless of what forms were filed, information supports the four-member general partnership, as represented by the [REDACTED] for 2005. This accurately reflects the nature of the farming operation and the manner as they have operated since 1976. The fact that the spouses have always been actively involved in the farming operation, and along with the Louisiana community property laws, clearly supports the determination of four separate “persons” for 2005.

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The tax forms for previous years supplied with the request for relief do not correspond to these contentions. For 2005, the immediate year in question, only [REDACTED] and [REDACTED] were included as partners and each claimed 50 percent of [REDACTED] LLC. The same was revealed for 2004, 2003, 2002, 2001, and 2000 with only 2 K-1's attached each year for the number of partners.

There was no evidence that the [REDACTED] were given erroneous information by an authorized Agency representative, or relied upon such erroneous notice or information. The [REDACTED] submitted forms and documents to the Agency and certified that the information contained on them was true and correct. There was no evidence that the information provided by the [REDACTED], and as accepted and used as the basis by the Agency for the issuance of program benefits, was the result of improper actions of Agency representatives or erroneous program information. There is no evidence that the farm operating plans filed by the [REDACTED] and representing to be an entity for the years 2002 through 2005 were erroneous either. Therefore, the circumstances do not warrant the consideration of relief under this provision or any other relief provision.

The request for relief is not approved. Notify the Plaquemines and St. Tammy Parish FSA Offices and Committees of this determination.

April 9, 2008 STC Executive Session Excerpt

III PAYMENT LIMITATION

C 2005 Farm Plan – [REDACTED]

The committee reviewed background information related to farm plans filed by [REDACTED] for payment limitation/eligibility purposes. [REDACTED] received 2005 Hurricane Disaster Assistance (LIP) for cattle losses, ECP (cleanup) and NAP (grass losses). The ECP and NAP payments were issued under separate CCC502Cs filed in St. Tammany Parish in September 2005 and in Plaquemines Parish in December 2005. The LIP payments were issued based on the 2005 CCC-502B filed June 29, 2006 in Plaquemine Parish and approved August 11, 2006.

[REDACTED] has operated as a general partnership and used the same federal tax identification number since 1976. The records in the Louisiana Secretary of State's Office reflect no changes from a general partnership to a limited liability company. [REDACTED] filed a 2000 CCC-502B which corresponds with the 1976 partnership agreement. The CCC-502C's filed in 2002 and 2005 were filed in error because the operation was carried out as a general partnership.

The partners of [REDACTED], [REDACTED], and [REDACTED] and [REDACTED] and [REDACTED], filed joint tax returns in previous years as supported by the record. Louisiana is a community property state and each spouse is entitled to a 25 percent share of the partnership's income and losses.

IRS Form 1065 "US Return of Partnership Income" was filed by [REDACTED] in 2005 and previous years. On Schedule B of the Form 1065, the box "domestic LLC" was checked in error rather than domestic general partnership. The committee reviewed a revised IRS Form 1065 filed by [REDACTED] showing "Domestic general partnership" checked on Schedule B of Form 1065.

Also, the committee reviewed a memo from the National Office advising that if a producer can substantiate that they were operating as husband and wife, the CCC-502 filed by the individual may be withdrawn and a new CCC-502 can be accepted. If payment has been made, the payment would have to be refunded and a new application filed.

The committee considered that [REDACTED] filed a new 2005 CCC-502B on June 29, 2006 and that the guidance from the National Office regarding withdrawing and refiling farm plans had been provided to the county office on June 6, 2006, prior to the new farm plan being filed by the [REDACTED], but had not been followed by the county office.

On motion by [REDACTED], seconded by [REDACTED] and carried, the state committee determined that [REDACTED] operated as a four person joint operation in 2005 and that the LIP application is correct; however, the ECP and NAP applications and payments are incorrect and must be refunded.

D 2005 Farm Plan – [REDACTED] and [REDACTED]

The committee reviewed background documentation in preparation to make a final decision regarding a 2005 person determination for [REDACTED] and his wife [REDACTED] and [REDACTED]. [REDACTED] filed a husband and wife joint operation plan for 2005 that qualified them for two limitations totaling \$160,000 in LIP benefits. In 1988 [REDACTED] and [REDACTED] purchased a herd of cattle from [REDACTED] parents and grandparents. They have filed their income taxes jointly and have claimed the cattle jointly for over 22 years.

[REDACTED] applied for and received ECPGM (hurricane cleanup) payments and 2005 NAP (grass destroyed by hurricane) and 05 HIP loss payments (based on NAP loss). These payments were based on [REDACTED] individual ownership interest.

Deeds dated April 2001 and July 24, 1989 were reviewed by [REDACTED], OGC. Her opinion is that the real estate is owned separately by [REDACTED] and that it would have been improper for [REDACTED] to join her husband in application for the benefits of the ECP as a landowner in that she has no interest in the real estate.

On motion by [REDACTED], seconded by [REDACTED] and carried, the committee determined, according to legal counsel, that the 2005 CCC-502A filed by [REDACTED] and the CCC-502B filed by [REDACTED] and [REDACTED] are correct.



United States
Department of
Agriculture

Farm and Foreign
Agricultural
Services

Farm Service
Agency

Louisiana State
FSA Office
3737 Government St
Alexandria, LA
71302-3395

DATE: August 5, 2008
TO: COC – St. John/Orleans Group Parish
COC – Washington Parish
FROM: State Executive Director
SUBJECT: [REDACTED]

The Louisiana FSA State Committee, at its meeting on April 9, 2008, determined that [REDACTED] operated as a four person joint operation in 2005 and that the 2005 LIP application is correct; however, the 2005 ECP and NAP applications are incorrect and payments must be refunded. The ECP and NAP payments were incorrectly issued based on separate CCC-502C's filed in Washington Parish in September 2005 and in Plaquemines Parish in December 2005. The CCC-502C's were filed in error because [REDACTED] was carried out as a four person joint operation rather than a limited liability company. The LIP application was approved based on a correctly filed CCC-502B representing a four person joint operation.

A letter shall be sent to [REDACTED] requesting refund of the ECP and NAP payments issued based on the incorrect farm operating plan. They cannot participate as an LLC and a partnership in the same year. The 2005 NAP sales closing date has passed, thus [REDACTED] is prohibited from re-applying for the 2005 NAP.

Please provide [REDACTED] CPA, [REDACTED] a copy of the demand letter. His address is [REDACTED]

Thanks for your efforts in resolving this issue.

cc: [REDACTED]

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Informational copies of this report have been distributed to:

Administrator, FSA

Attn: Agency Liaison Officer	(3)
Government Accountability Office	(1)
Office of Management and Budget	(1)
Office of the Chief Financial Officer	
Director, Planning and Accountability Division	(1)